IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR
ORDER

S.B. Civil Writ Petition No.4265/06
Harpal Singh Vs. State of Raj. & Ors.

Date of Order :: 27th November, 2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Ganesh Meena)
Shri R.N. Mathur for the petitioner.
Shri S.M. Mehta, Sr. Advocate with
Shri Rajendra Prasad for respondents.
Shri B.K. Sharma, Dy. GA for State.

The petitioner has filed this writ petition with the prayer that the notice issued by the respondents to him dated 25.4.06 in seeking to proceed against him under Section 39(2) of the Rajasthan Panchayati Raj Act, 1994 may be declared illegal. A contrary prayer was made in the connected S.B. Civil Writ Petition No.3074/06 by petitioner Dharam Singh

that the respondents be directed to proceed against the petitioner in this case under Section 39, supra.

In view of the Full Bench judgment in **Smt. Sameera Bano Vs. State of Raj. & Ors. : 2007 (2) WLC (Raj.) 526** , however, such a prayer could not be allowed. The Full Bench in the said judgment has held that an elected representative of Panchayati Raj Institution cannot be removed by administrative action under Section 39(l) of the Act. That prayer of the petitioner Dharam Singh in the connected writ petition was therefore rejected by separate judgment dated 19.11.2007.

In view of the Full Bench decision in Smt. Sameera Bano, supra, therefore the respondents could not in any case proceed

against the petitioner in the administrative action. However, this Court by issuing writ of co-warranto in the identical writ petition has directed removal of the petitioner, holding him to be disqualified as on the date he submitted his nomination paper. No separate mandamus therefore need be issued as has been prayed for in this writ petition.

The writ petition is accordingly disposed of.

(Mohammad Rafiq),J.

RS/-